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**U.S. Citizenship  
and Immigration  
Services**

93

FILE:

Office: NEW YORK

Date: JAN 20 2004

IN RE:

Obligor:

Bonded Alien:

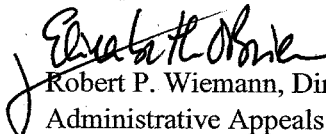
IMMIGRATION BOND:

Bond Conditioned for Voluntary Departure under § 240B of the Immigration and Nationality Act, 8 U.S.C. § 1229c

ON BEHALF OF OBLIGOR:

INSTRUCTIONS:

This is the decision of the Administrative Appeals Office in your case. All documents have been returned to the office that originally decided your case. Any further inquiry must be made to that office.

  
Robert P. Wiemann, Director  
Administrative Appeals Office

**DISCUSSION:** The voluntary departure bond in this matter was declared breached by the Field Office Director, Detention and Removal, New York, New York, and is now before the Administrative Appeals Office on appeal. The appeal will be dismissed.

The record indicates that on May 18, 2001, the obligor posted a \$500.00 bond conditioned for his voluntary departure. An order of the immigration judge (IJ) dated May 15, 2001, was issued granting the alien voluntary departure in lieu of removal on or before July 16, 2001. The bonded alien appealed the IJ's decision to the Board of Immigration Appeals (BIA). On August 28, 2002, the BIA affirmed, without opinion, the IJ's decision, and granted the alien voluntary departure within 30 days from the date of the order. On October 23, 2002, the alien filed a petition for Writ of Habeas Corpus with the United States District Court for the Southern District of New York for review of the BIA's decision. On March 5, 2004, the field office director concluded the bond had been breached.

On appeal, counsel asserts that the alien has a pending petition for review before the United States District Court in New York.

A petition for review of an order of removal does not stay the execution of the removal order unless the court orders otherwise. Section 242(b)(3)(B) of the Immigration and Nationality Act (the Act) 8 U.S.C. § 1252(b)(3)(B). There is no evidence of record to indicate that the United States District Court has stayed the bonded alien's removal.

The regulation at 8 C.F.R. § 1240.26(c)(3) provides that in order for the voluntary departure bond to be cancelled, the alien must provide proof of departure to the field office director.

No satisfactory evidence has been introduced into the record to establish the alien made a timely departure. The service of a notice to surrender or the presence of a certified mail receipt is not required in voluntary departure bond proceedings.

Voluntary departure bonds are exacted to ensure that aliens will depart when required in lieu of removal. Such bonds are necessary in order for Immigration and Customs Enforcement (ICE) to function in an orderly manner. After a careful review of the record, it is concluded that the alien failed to depart by the stipulated time, the conditions of the bond have been substantially violated, and the collateral has been forfeited. The decision of the field office director will not be disturbed.

**ORDER:** The appeal is dismissed.